

Message Text

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ACTION EUR-25

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SUBJECT: BUNDESKARTELLAMT ORDERS GASOLINE PRICE REDUCTION

1. SUMMARY: BUNDESKARTELLAMT'S PROBE OF PRICING
POLICIES OF MAJOR OIL COMPANIES OPERATING IN FRG,
WHICH HAS RECEIVED CONSIDERABLE PUBLIC ATTENTION,
MOVED INTO NEW PHASE WITH APRIL 22 ORDER TO TEXACO
AND BP TO RESCIND RECENTLY-INSTIUTED PRICE INCREASES
FOR GASOLINE ACTION FOLLOWED ANNOUNCEMENTS BY ESSO
AND SHELL OF VOLUNTARY HALT ON SIMILAR PRICE INCREASES.
END SUMMARY

2. THE CONFRONTATION BETWEEN THE MAJOR OIL COMPANIES
--ESSO, TEXACO, BP, SHELL, AND GERMAN-OWNED ARAL--
AND FEDERAL CARTEL OFFICE (BKA) OVER PRICING POLICIES
WHICH BEGAN WITH CALL FOR HEARINGS BEFORE BKA EXAMINERS
IN BERLIN AT END OF MARCH ESCALATED ON APRIL 22 WITH A
BKA ORDER TO TEXACO AND BP TO RESCIND RECENTLY-INSTI-
TUTED GASOLINE PRICE INCREASES OF APPROXIMATELY 1
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PFENNING PER LITER. ON APRIL 18 BKA HAD GIVEN TWO
FIRMS UNTIL APRIL 22 TO SHOW CAUSE WHY SUCH AN ORDER

SHOULD NOT BE ISSUED. SIMILAR ANNOUNCEMENT WAS MADE APRIL 19 REGARDING ESSO AND SHELL, WHICH HAD FOLLOWED WITH SIMILAR PRICE INCREASES, WITH LATTER TWO COMPANIES BEING GIVEN UNTIL APRIL 23 TO ANSWER BKA.

3. THE EARLIER BKA ACTION HAD ELICITED FAVORABLE COMMENT FROM WITHIN FEDERAL GOVERNMENT---ECONOMICS MINISTER FRIDERICH'S SUPPORTED THE MOVE IN AN APRIL 19 SPEECH BEFORE BERLIN CHAMBER OF INDUSTRY AND COMMERCE--AND FROM OPPOSITION CDU OFFICIALS IN BONN. BOTH SHELL AND ESSO DECLARED ON APRIL 20 THAT THE PRICE INCREASES WOULD BE HELD IN ABEYANCE, IN SHELL'S CASE FOR PERIOD OF FOUR WEEKS. SHELL DECLARED IT HAD MADE NO PROFIT IN GERMAN MARKET SINCE JANUARY, THAT PRICE INCREASES WERE ESSENTIAL, BUT THAT IT WAS PREPARED TO DISCUSS PRICING SITUATION WITH ECONOMICS MINISTRY AND WITH EXPERTS OF THE THREE POLITICAL PARTIES, BUT INDEPENDENTLY OF ITS RELATIONS WITH BKA. ESSO ANNOUNCED THAT ONLY 5 PERCENT OF ITS STATIONS HAD ALREADY PUT INCREASE INTO EFFECT. TEXACO AND BP DID NOT ANNOUNCE A CORRESPONDING PRICE FREEZE, WHICH LED TO BKA ORDER OF APRIL 22. BP DID TAKE UNUSUAL STEP OF PROPOSING INDEPENDENT AUDIT OF ITS BOOKS TO PROVE PRICE INCREASE WAS JUSTIFIED

4. BP HAS ANNOUNCED IT WILL APPEAL APRIL 22 ORDER TO BERLIN KAMMERGERICHT. IT WILL, HOWEVER, REMAIN UNDER INJUNCTION NOT TO CHARGE INCREASED PRICE DURING APPEAL. TEXACO HAS NOT YET INDICATED WHETHER IT WILL APPEAL.

5. ALSO STILL TO BE RESOLVED IS EARLIER BKA ACTION WHEREBY ESSO, TEXACO, SHELL, AND BP WERE ASKED TO SHOW CAUSE WHY PRICE FOR DIESEL FUEL SOLD AT FILLING STATIONS SHOULD NOT DROP BY 5 PFENNING. THIS ACTION BASED ON FACT THAT PRICE FOR DIESEL FUEL SOLD DIRECTLY TO LARGE CUSTOMERS (WHICH ACCOUNTS FOR ABOUT 90 PERCENT OF MARKET) HAS DECREASED BY AROUND 10 PFENNING PER LITER SINCE FEBRUARY.

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5. COMMENT: THE ENERGY CRISIS AND RESULTANT INCREASES IN FUEL PRICES GAVE BKA ITS FIRST OPPORTUNITY FOLLOWING LAST YEAR'S REVISION OF FRG CARTEL LAW TO EXERCISE ITS INCREASED AUTHORITY IN FIELD OF CONSIDERABLE PUBLIC INTEREST. ATTENTION WAS CENTERED ON MULTINATIONAL CORPORATIONS: THE BKA ANNOUNCED PUBLICLY ITS SUSPICION THAT SUBSTANTIAL PROFIT INCREASES OF THESE FIRMS MUST HAVE BEEN ACHIEVED TO LARGE DEGREE IN GERMAN MARKET, SINCE OTHER EUROPEAN COUNTRIES FIXED

PRICES AT LOWER LEVEL BY STATE INTERVENTION. THUS
BURDEN OF PROOF REMAINS WITH OIL COMPANIES TO PROVE
THAT PROFITS HAVE NOT BEEN ACHIEVED THROUGH MISUSE
OF MARKET POWER. KLEIN

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